



Procedural By-Law 2022-013



Importance of a Procedural By-Law

- to regulate and guide how Council should function at meetings in which the business of the Town is transacted. In the absence of specific rules in the procedural by-law reference is usually made to rules of parliamentary procedure i.e. Robert's Rules of Order
- to ensure, given the limited times that it meets as a body, that Council conducts the business of the town in the most efficient way.
- to ensure Councils actions at its meetings are valid and in accordance with law.
- to ensure and maintain public confidence in its Council.
- meetings that are run with civility, respect and decorum are the most productive and effective meetings.



Role of Council at the Meetings

- prepare for meetings: read the agenda, ask questions of Administration
- speak only to subject under consideration in meetings
- vote on motions
- observe and support proper procedure and decorum at the meetings
- observe and follow the Code of Conduct for Members of Council
- uphold both the letter and spirit of federal and Provincial laws and the laws and policies adopted by the Town
- state questions through the Chair/seek information and recommendations from Administration



Role of Council at the Meetings

- attend and participate on committees as appointed by Council
- carry out duties under Municipal Act or any other Act
- act in accordance with Declaration of Office



Clerk's Duties under Procedural by-law

- prepare and distribute agendas
- maintain a record of all resolutions, decisions & proceedings
- keep by-laws and minutes
- perform other duties required by Municipal Act
- advise on parliamentary procedure
- clerk appoints designate when clerk absent



“Meetings” under the Procedural By-law

“meeting” means any regular, special or other meeting of a council, of a local board or of a committee of either of them, *where,*

- a) *a **quorum** of members is present, and*
- b) *members discuss or otherwise deal with any matter in a way that **materially advances the business or decision-making** of the council, local board or committee.*
- c) *the Clerk needs to be present at all meetings of Council*



Meetings: Quorum of Council

- quorum is a majority of the whole number of the members of Council who are present in person or electronic attendance (4 members = quorum)
- please Notify Clerk when you expect to be absent from meeting
- **note:** A group of Council members of 4 or more meeting outside Chambers or communicating by email could constitute a Council Meeting (in violation of the Municipal Act open meeting and public notice requirements) if the meeting materially moves forward the business of the Town.



Regular Council Meetings, s.4

- held on 2nd and 4th Tuesday of every month, unless otherwise decided by Council majority by resolution.
- meetings on public holiday moved to next following date or as agreed by Council.
- meetings generally held in Council Chambers, 917 Lesperance Road.
- the Mayor by notice or Council by resolution may alter the date, time and location of Regular Meeting in accordance with section 4 (c).



Regular Council Meeting Agenda

- clerk electronically delivers agenda to Council and posts to the website 5 days prior to meeting
- agenda is considered notice for the public
- if necessary supplementary items to the agenda may be posted/distributed after agenda published



Order of Business Regular Meetings

Business dealt with in same order as agenda unless otherwise decided by majority resolution.

- Roll Call
- Call to Order
- Report Out: Closed Meeting
- Moment of Silence
- National Anthem
- Land Acknowledgement
- Disclosure of Pecuniary Interest (Conflict of Interest)
- Minutes
- Adoption of Supplementary Agenda
- Delegations
- Communications
- Committee Minutes
- Reports
- By-laws
- Unfinished Business
- New Business
- Motions
- Next meetings
- Adjournment



Special Council Meetings

- may be called by Mayor on 1 day's notice, by Council on petition by the majority or the Chair of a Committee on 5 days notice
- called for a specific purpose or subject matter or to deal with important matters that arise between regular meetings



Order of Business: Special Meetings

Business dealt with in same order as agenda unless otherwise decided by Council with majority resolution.

- Roll Call
- Call to Order
- Land Acknowledgement
- Disclosure of Pecuniary Interest (Conflict of Interest)
- Delegations
- Communications
- Reports
- Adjournment



Closed Council Meetings

General Rule: All meetings of Council and Committees shall be open to the public except as related to the exceptions permissible under Section 239 of the *Municipal Act*.



Closed Meeting Exceptions

Section 239(2) of the Municipal Act together with the Procedural By-law allows for a number of **discretionary exceptions** to the requirement to hold open (public) meetings.

Per Section 4(f) of the Procedural By-law a meeting of Council or a Committee **may** be closed to the public if the subject matter being considered relates to some of the following matters:

- a) security of **municipal property**;
- b) **personal matters** about an identifiable individual;
- c) proposed/pending **acquisition/disposition of land**;
- d) labour relations or **employee negotiations**;



Closed Meeting Exceptions

- e) **litigation** or potential litigation, including matter before tribunal;
- f) advise subject to **solicitor-client** privilege;
- g) matter that may be held as Closed Meeting under another Act i.e. MFIPPA
- h) information explicitly supplied in confidence to the municipality by provincial or federal government
- i) a **trade secret or other technical, proprietary, financial information or labour relations information supplied in confidence** which if disclosed could reasonably be expected to prejudice significantly the competitive position or interfere with the contractual or other negotiations of a person(s) or organization
- j) a trade secret or other technical, proprietary or financial information that belongs to the municipality and has monetary or potential monetary value.



Closed Meetings – Why?

There could be many compelling reasons why a matter should be discussed in closed session, but common reasons are to:

- observe and **protect privacy rights** or confidentiality obligations required or imposed by law
- **protect certain proprietary rights or assets of the Town** which could be compromised if the information released to the public
- protect the **bargaining or negotiating position** of the Town on certain matters
- **receive litigation advice, legal opinions** or legal information concerning an ongoing prosecution or enforcement matter

The determination of whether a matter should be dealt with in a Closed Meeting is the responsibility of the CAO in consultation with the Mayor and Director, Legislative Services/Clerk.



Closed Meeting Procedures

- in a Closed Meeting, Council/Committee is only permitted to vote on procedural motions or to vote to give procedural direction to administration. No other decisions or approvals are permitted in a Closed Meeting.
- the Rules of Procedure shall otherwise continue to apply during closed meetings.
- motion in Open session to move into Closed session and disclose the general nature of matter to be discussed.



Closed Meeting Procedures

- closed meeting report: To disclose later in open session, in a general matter, how the closed meeting agenda items were dealt with.
- where possible some matters discussed in Closed Meeting should come back ultimately and be dealt with or disclosed in public. The discussion itself concerning those matters would remain confidential



Confidential Information

- pursuant to the Code of Conduct for Members of Council, Members of Council shall not disclose any information or discussion arising from directly or indirectly in a Closed Meeting.
- disclosing Confidential Information from a closed meeting is a violation of the Code of Conduct and may put the Councilor at risk of an Integrity Commissioner investigation and/or other liability.



Meetings: Disclosure of Conflict of Interest s.14(B)

Section 5 (1) of the *Municipal Conflict of Interest Act* (MCIA) currently states:

Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect and is present at the meeting, the member,

- a) Shall, prior to consideration of the matter, disclose the interest and general nature thereof;
- b) Shall not take part in the discussion of, or vote on any question in respect of the matter (if the disclosure is made in closed meeting the member shall leave the meeting);
- c) Shall not attempt before, during or after the meeting to influence the vote

5.1 *At a meeting at which a member discloses an interest under Section 5, or as soon as possible afterwards, **the member shall file a written statement of the interest and its general nature with the clerk of the municipality** or the secretary of the committee or local board, as the case may be.*



Conflict of Interest Registry

6.1 (1) *Every municipality and local board shall establish and maintain a registry in which shall be kept,*

- a) **a copy of each statement filed** *under section 5.1; and*
- b) **a copy of each declaration recorded** *under section 6.*

6.1 (2) The registry shall be **available for public inspection** in the manner and during the time that the municipality or local board, as the case may be, may determine.



Pecuniary Interest

It is the responsibility of Council members to disclose a direct or indirect pecuniary interest on any matter before Council, Committees, Boards, etc. (i.e. item on an agenda to be discussed or voted on)

What is a Pecuniary Interest? Not a defined term (caselaw) but would include in connection with that matter before council:

- monetary benefits that will be received or could be received directly or indirectly as a result of an agenda item, either in cash or as an increase in asset value
- can also mean avoidance of cash payments



Pecuniary Interest

What is meant by “direct” and “indirect”:

Direct Pecuniary Interest – includes (in connection with that matter before council) the Council member, member’s parent, spouse, partner, child (not restricted to person 18 years of age and includes natural children, adopted children and those treated as a child)

Indirect Pecuniary Interest exists when the Council member, (in connection with that matter before council) is:

- shareholder, director or officer of a corporation
- member of a body or group that has direct pecuniary interest
- partner of person or in employment of person or body that has direct pecuniary interest



Disclosure

Where direct or indirect pecuniary interest exists during a **closed meeting**, member shall:

- a) leave meeting during which matter discussed
- b) disclose interest, but not general nature of interest at next open meeting

**ANY DOUBTS AS TO IF DISCLOSURE IS REQUIRED
PLEASE CONTACT THE INTEGRITY COMMISSIONER
FOR ADVICE**



Delegations s.14(E)

- general delegations must submit Delegation Request to the Clerk 7 days in advance of the meeting at which they wish to appear.
- a delegation can be heard upon Council resolution at the meeting.
- delegations must confine remarks to business stated in request and are limited to Five minutes or Ten minutes for two speakers (subject to Mayor's discretion).



Delegations

The Clerk in consultation with Mayor has authority to deny a Delegation for various reasons including:

- the request is not submitted within timelines
- the subject matter is deemed to be beyond the jurisdiction of Council;
- the issue is specific to a labour or management dispute, or other matter properly held in closed session;
- the issue has been or is to be considered by the Committee of Adjustment;



Delegations

- council has previously considered or made a decision on the issue and a Delegation has appeared on the same issue previously considered or decided by council within a period of twelve (12) months from the last consideration;
- council previously indicated it will not hear further from this Delegation;
- the matter relates to litigation, potential litigation or any other matters currently before a court of tribunal affecting the Town
- the issue is a matter that should be referred to Administration for action.



Notices of Motion Section 12

- a Motion /Notice of Motion is an advance notice (3 days notice) regarding a matter on which Council will be asked to make a decision by resolution at a future council meeting.
- shall be given in writing to the Clerk: **in the form of a motion** and **prior to the meeting** in which it will be considered.
- **“in the form of a motion”** means a request that is an actionable item for Council/Administration to take. Administration can assist with wording for a motion/Notice of Motion



Electronic Participation in Council Meeting s.9(a)

A Council member may participate in a meeting electronically (closed or open) subject to the following:

- a Council member participating electronically is permitted to vote and shall be considered as part of quorum.
- the Council member shall provide the Clerk with Five (5) days notice that they wish to attend the meeting electronically.
- the public or delegations may attend or participate electronically.



Mayor/Presiding Officer Duties at the meeting s.9(b)

“To Preside over the meetings” “To Chair”

- permit questions through the Chair
- to put to vote all questions (as moved/seconded)
- provide information on Town business
- to select members of Council to serve on Committees
- sign all By-Laws and minutes of Council
- rule on points of order raised by members
- represent and support Council
- maintain order and decorum
- guide the meeting through its agenda and adjourn meeting
- carry out duties of Head of Council under Acts and per Delegation of Authority of By-law
- act in accordance with Declaration of Office



Rules of Order and Debate

- mayor presides over conduct of meetings and directs which member has the floor and generally preserves order.
- members are not to speak over each other or interrupt (except point of order) and must be recognized by Chair before speaking . Members shall raise their hand and wait to be recognized by the Chair.
- members, administration, and members of the public shall speak through the Chair at all times, this helps maintain the required order, respectful discourse and civility.



Motions s.4.10

- a Motion is a **proposal to pass a resolution**; in other words, a resolution is a **motion that has yet to be passed/approved (i.e. voted upon)**.
- motions need to be moved/seconded before speaking to or having discussion specifically to the Motion or putting the motion to a vote.
- subject to the discretion of the Chair the remarks to the motion under consideration should ideally be limited to 5 minutes each.



Motions

- subject to the discretion of the Chair each Council member should ideally only speak once to a motion with the right of reply at the end by the member who moved the motion.
- friendly Amendments (to improve or clarify the intent of the motion or improve its chances of adoption), original mover and seconder must consent.



Motion to Table

- removes the subject matter from consideration until members vote to take it from the table (remove from the table)
- can be tabled for a specific or indefinite period of time
- no debate once moved and seconded/majority vote
- requires a vote to bring back from table



Motion to Postpone/Defer

- a motion requesting a pending question be delayed to a definite time or event
- the merits of the request can be debated but no further discussion of the main pending question



Motion to Refer

A motion requesting that a pending motion be referred back to administration or elsewhere for further information/investigation before bringing the matter back for Council's consideration.



Motion to Reconsider

- a Motion to Reconsider is a Motion requesting **to bring back**, for further consideration, **a Motion that has already been decided on by Council**
- if the action approved in the original Motion cannot be reversed, the Motion cannot be reconsidered.
- a Motion may be reconsidered at the same Meeting or any Meeting following the Meeting when the Motion was considered
- a Motion to Reconsider a decided matter shall require the **approval of two-thirds support**



Motion to Withdraw

- mover can withdraw his/her motion without consent if not yet received by Chair
- if received and if not granted by unanimous consent upon Mover request, then the motion can be moved and seconded and majority vote



Voting

- no member speaks further on motion after motion put to vote
- members are to vote on every motion unless declared conflict of interest
- **abstaining or declining to vote is a deemed negative vote**
- no vote taken by ballot or secret voting
- Mayor asks members to **vote by show of hand to indicate “support” or “opposed”** and then announces result after every vote taken : “Motion carries” or “Motion defeated”
- unless otherwise stated voting is **by majority**



Voting

- **a Tie Vote = Motion defeated**
- clerk does not record in the minutes opposing votes unless the member requests.
- the Chair (except where disqualified i.e. conflict of interest) may vote with the members on all questions.



Recorded Vote

- call for recorded vote immediately prior to taking of vote
- clerk calls upon members to answer “support” or “opposed” beginning with member asking for recorded vote and clockwise thereafter
- names of those voting in support/opposition recorded in minutes
- all members vote unless declared conflict or pecuniary interest



By-Laws and Resolutions

A by-law differs from a resolution, in that a **resolution usually applies and refers to a single act or direction of the council**, while a **by-law, is a permanent continuing rule, which is to be applied to all acts and future occasions**. In most cases, by-laws are required to give full legal effect to acts or resolutions of Council.



Resolutions

- A resolution is a record of decisions or wishes of council, and includes routine administrative and management matters



By-Laws

- **by-law:** a law or regulation or rule of a local government.
- every by-law shall receive First Reading, Second Reading and Third Reading by Council unless Council directs otherwise. A by-law is of no force and effect until third reading has passed.
- a by-law may proceed to second and third reading at the same Meeting that it received first reading.



Procedural By-Law Review

- clerks dept. service delivery review
- a review is therefore recommended in order to obtain feedback and collaborate on revisions to update the By-law taking into observations coming out of the consultant's review.
- consultant also identified various issues to be considered for the review/update such as :
 - Appropriate references to parliamentary sources
 - Updated revised language concerning Motions and notices of motions
 - Further clarification and additions concerning rules of voting



Procedural By-law Review

- report coming to Council on February 14 to strike up a Council sub-committee to review the current procedural by-law.
- ultimately It is Council's Procedural by-law and the key tool to use to ensure resident/stakeholder's issues are addressed and to ensure efficient and productive meetings.
- think of the Procedural by-law as a living tree that grows/adapts over time.



Procedural By-law Questions?

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